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c 118 The Planning Amendment Act, 1972

Ontario

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CHAPTER 118

An Act to amend The Planning Act

*Assented to June 30th, 1972
Session Prorogued December 15th, 1972*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 4 of *The Planning Act*, <sup>s. 4 (1),
amended</sup> being chapter 349 of the Revised Statutes of Ontario, 1970, is amended by striking out “or of a local board” in the twelfth line and inserting in lieu thereof “within or partly within the planning area or of a local board of any such municipality”.

(2) Subsection 3 of the said section 4 is repealed. <sup>s. 4 (3),
repealed</sup>

(3) Subsection 5 of the said section 4 is amended by striking <sup>s. 4 (5),
amended</sup> out “subject to subsection 3” in the third and fourth lines.

2. Subsection 2 of section 13 of the said Act is repealed and <sup>s. 13 (2),
re-enacted</sup> the following substituted therefor:

(2) The council of the designated municipality may, by <sup>Adoption
of plan</sup> by-law, adopt the plan as submitted or adopt it with such amendments thereto as the council considers appropriate.

3. Subsection 5 of section 29 of the said Act is amended by <sup>s. 29 (5),
amended</sup> adding at the end thereof “provided that the by-law, without requiring the approval of the Minister, may be repealed, or may be amended to delete part of the lands described therein, and when the requirements of subsection 10 have been complied with, subsection 4 thereupon applies to the lands affected by the repeal or amendment”.

4.—(1) Subsection 5 of section 32 of the said Act is amended <sup>s. 32 (5),
amended</sup> by striking out “the order” in the third line and inserting in lieu thereof “an order made under clause b of subsection 1”.

(2) The said section 32 is amended by adding thereto the <sup>s. 32,
amended</sup> following subsection:

Idem

(5a) The Minister shall cause a duplicate or certified copy of an order made under clause *a* of subsection 1,

(a) where the land affected is situate in a municipality, to be lodged in the office of the clerk of the municipality, or where the land affected is situate in two or more municipalities, in the office of the clerk of each of such municipalities and the provisions of subsection 2 of section 216 of *The Municipal Act* apply *mutatis mutandis*; and

R.S.O. 1970,
c. 284

(b) where the land affected is situate in territory without municipal organization, to be registered in the proper registry or land titles office.

s. 33 (5) (a),
re-enacted

5.—(1) Clause *a* of subsection 5 of section 33 of the said Act is repealed and the following substituted therefor:

(a) that land to an amount determined by the Minister but not exceeding 5 per cent of the land included in the plan shall be conveyed to the municipality for park purposes or, if the land is not in a municipality, shall be dedicated for park purposes.

s. 33 (8),
amended

(2) Subsection 8 of the said section 33 is amended by striking out "public purposes other than highways" in the second line and inserting in lieu thereof "park purposes".

s. 33 (9),
re-enacted

(3) Subsection 9 of the said section 33 is repealed and the following substituted therefor:

Use and
sale of
land

(9) Land conveyed to a municipality under subsection 5 shall be used for park purposes or such other public purposes as are approved by the Minister, but may be sold with the approval of the Minister within a period of five years from the date of the approval of the plan of subdivision and may, after such period, be sold without the approval of the Minister.

s. 33 (11),
amended

(4) Subsection 11 of the said section 33 is amended by striking out "held and used by the municipality" in the sixth and seventh lines and in the eighth and ninth lines and inserting in lieu thereof in each instance "used", so that the subsection shall read as follows:

Special
account

(11) All moneys received by the municipality under subsections 8 and 10 and all moneys received on the sale of land under subsection 9, less any amount expended by the municipality out of its general funds

in respect of such land, shall be paid into a special account, and the moneys in such special account shall be expended only for the acquisition of lands to be used for park purposes or, with the approval of the Minister, for the acquisition of land to be used for other public purposes or, with the approval of the Minister, for the development or improvement of lands used or to be used for park purposes, including the erection or repair of buildings or other structures thereon, and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor in his annual report shall report on the activities and position of the account.

R.S.O. 1970,
c. 470

6.—(1) Section 35 of the said Act is amended by adding ^{s. 35, amended} thereto the following subsection:

- (1a) The authority to regulate provided in paragraph 4 of subsection 1 includes and, notwithstanding the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the density of development in the municipality or in the area or areas defined in the by-law. ^{Minimum area and density provisions}

(2) Subsection 1 does not affect the rights acquired by any ^{Saving} person from a judgment or order of any court prior to the day on which this Act comes into force, or affect the outcome of any litigation commenced on or before the 23rd day of June, 1972.

7. Section 36 of the said Act is repealed and the following ^{s. 36, re-enacted} substituted therefor:

36.—(1) In this section,

Interpre-
tation

- (a) "committee" means a property standards committee established under this section;
- (b) "occupant" means any person or persons over the age of eighteen years in possession of the property;
- (c) "officer" means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under this section;
- (d) "owner" includes the person for the time being managing or receiving the rent of the land

or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;

(e) "property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;

(f) "repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established in a by-law passed under this section.

Adoption
of policy
statement

(2) Where there is no official plan in effect in a municipality, the council of the municipality may, by by-law approved by the Minister, adopt a policy statement, containing provisions relating to property conditions.

Standards of
maintenance
and
occupancy

(3) If,

(a) an official plan that includes provisions relating to property conditions is in effect in a municipality; or

(b) the council of a municipality has adopted a policy statement as mentioned in subsection 2,

the council of the municipality may pass a by-law,

(c) for prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform to the standards;

(d) for requiring property that does not conform to the standards to be repaired and maintained

to conform to the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;

- (e) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section.
- (4) When a by-law under this section is in effect, an Inspection officer and any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property.
- (5) An officer or any person acting under his instructions shall not enter any room or place actually used as a Entry into dwelling place dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*. R.S.O. 1970, c. 450
- (6) If, after inspection, the officer is satisfied that, in some Notice of violation respect, the property does not conform to the standards prescribed in the by-law he shall serve or cause to be served by personal service upon, or send by prepaid registered mail to the owner of the property and all persons shown by the records of the registry office, the land titles office and the sheriff's office to have any interest therein a notice containing particulars of the non-conformity and may, at the same time, provide all occupants with a copy of such notice.
- (7) After affording any person served with a notice provided for by subsection 6 an opportunity to appear Contents of order before the officer and to make representations in connection therewith, the officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing,
- (a) the municipal address or the legal description of such property;
- (b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the municipality may carry

out the repair or clearance at the expense of the owner; and

(c) the final date for giving notice of appeal from the order.

Order to be sent to last known address

(8) A notice or an order under subsection 6 or 7, when sent by registered mail shall be sent to the last known address of the person to whom it is sent.

Substituted service

(9) If the officer is unable to effect service under subsection 6 or 7, he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

Registration of notice

(10) An order under subsection 7 may be registered in the proper registry or land titles office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the date on which the order was served under subsection 7 and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper registry or land titles office a certificate that such requirements have been satisfied, which shall operate as a discharge of such order.

Property standards committee

(11) Every by-law passed under this section shall provide for the establishment of a property standards committee composed of such number of ratepayers in the municipality, not fewer than three, as the council considers advisable and who shall hold office for such term and on such conditions as may be prescribed in the by-law, and the council of the municipality, when a vacancy occurs in the membership of the committee, shall forthwith fill the vacancy.

Member and employees of municipality, etc., not eligible

(12) A member of the council of the municipality or an employee of the municipality or of a local board thereof is not eligible to be a member of a committee, but a teacher employed by a board of education or school board is not deemed to be an "employee" for the purpose of this section.

Chairman

(13) The members of the committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise, the committee may appoint another member to act as chairman *pro tempore* and shall make provision for a secretary

for the committee, and any member of the committee may administer oaths.

- (14) The members of the committee shall be paid such compensation as the council may provide. Remuneration
- (15) The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 216 of *The Municipal Act* applies *mutatis mutandis* to such documents. Filing of documents, etc.
R.S.O. 1970, c. 284
- (16) A majority of the committee constitutes a quorum, and the committee may adopt its own rules of procedure but before hearing an appeal under subsection 18 shall give notice or direct that notice be given of such hearing to such persons as the committee considers should receive such notice. Quorum and procedure
- (17) When the owner or occupant upon whom an order has been served in accordance with this section is not satisfied with the terms or conditions of the order, he may appeal to the committee by sending notice of appeal by registered mail to the secretary of the committee within fourteen days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed. Appeal to committee
- (18) Where an appeal has been taken, the committee shall hear the appeal and shall have all the powers and functions of the officer and may confirm the order to demolish or repair or may modify or quash it or may extend the time for complying with the order provided that, in the opinion of the committee, the general intent and purpose of the by-law and of the official plan or policy statement are maintained. Decision on appeal
- (19) The municipality in which the property is situated or any owner or occupant or person affected by a decision under subsection 18 may appeal to a judge of the county or district court of the judicial district in which the property is located by so notifying the clerk of the corporation in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision, and, Appeal to judge
 - (a) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appointment may direct that it

shall be served upon such persons and in such manner as he prescribes;

(b) the appointment shall be served in the manner prescribed; and

(c) the judge on such appeal has the same powers and functions as the committee.

Effect of
decisions

(20) The order, as deemed to have been confirmed pursuant to subsection 17, or as confirmed or modified by the committee pursuant to subsection 18, or, in the event of an appeal to the judge pursuant to subsection 19, as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order.

Power of
corporation
to repair
or demolish

(21) If the owner or occupant of property fails to demolish the property or to repair in accordance with an order as confirmed or modified, the corporation in addition to all other remedies,

(a) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property; and

(b) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the corporation under the provisions of this subsection.

Certificate of
compliance

(22) Following the inspection of a property, the officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of a by-law passed under subsection 3, and the council of a municipality may prescribe a fee payable for such a certificate, where it is issued at the request of the owner.

Enforcement

(23) A by-law passed under the authority of this section may impose a penalty of not more than \$500 upon an owner for each day that he is in contravention of an order that is final and binding.

s. 37 (1),
amended

8.—(1) Subsection 1 of section 37 of the said Act is amended by striking out "3" in the fifth line and inserting in lieu thereof "6".

(2) Subsection 2 of the said section 37 is amended by striking out "not exceeding five years" in the fifth line. s. 37 (2),
amended

9. Subsection 1 of section 41 of the said Act is amended by striking out "or part" in the fourth line. s. 41 (1),
amended

10.—(1) Subsection 13 of section 42 of the said Act is repealed and the following substituted therefor: s. 42 (13),
re-enacted

(13) The applicant, the Minister or any other person who has an interest in the matter may appeal to the Municipal Board against the decision of the committee by serving personally on or sending by registered mail to the secretary-treasurer of the committee notice of appeal accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under *The Ontario Municipal Board Act* as payable on an appeal from a committee of adjustment to the Board, within twenty-one days after the sending of the notice under subsection 11. Appeal
R.S.O. 1970,
c. 323

(13a) The secretary-treasurer of a committee, upon receipt of a notice of appeal served or sent to him under subsection 13 shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection 13 to the Municipal Board by registered mail together with all papers and documents filed with the committee of adjustment relating to the matter appealed from and such other documents and papers as may be required by the Municipal Board. Idem

(2) Subsection 14 of the said section 42 is amended by striking out "fourteen" in the first line and inserting in lieu thereof "twenty-one". s. 42 (14),
amended

11. The said Act is amended by adding thereto the following section: s. 44a,
enacted

44a. When under this Act the Minister pursuant to the request of any person has referred a matter to the Municipal Board the matter, on the further request of such person and with the concurrence of all other persons, if any, who had requested that the matter be referred to the Municipal Board, may be taken back from the Board by the Minister at any time prior to a decision in respect thereof having been made by the Board. Resumption
by Minister
of matter
referred to
O.M.B.

12. This Act comes into force on the day it receives Royal Assent. Commence-
ment

13. This Act may be cited as *The Planning Amendment Act, 1972*. Short title

